

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

THE UNIVERSITY OF UTAH,

Plaintiff,

v.

MAX-PLANCK-GESELLSCHAFT zur FORDERUNG der WISSENSCHAFTEN e.V., a corporation organized under the laws of Germany; MAX-PLANCK-INNOVATION GmbH, a corporation organized under the laws of Germany; WHITEHEAD INSTITUTE FOR BIOMEDICAL RESEARCH, a Delaware corporation; MASSACHUSETTS INSTITUTE OF TECHNOLOGY, a Massachusetts corporation; ALNYLAM PHARMACEUTICALS INC., a Delaware corporation; and ROBERT L. CARET, President of the University of Massachusetts in his official capacity; JAMES R. JULIAN, Executive Vice President and Chief Operating Officer of the University of Massachusetts, in his official capacity; CHRISTINE W. WILDA, Senior Vice President for Administration, Finance & Technology and University Treasurer of the University of Massachusetts, in his official capacity; and JAMES P. MCNAMARA, Executive Director, Office of Technology Management of the University of Massachusetts, in his official capacity, their predecessors and successors in office,  
Defendants.

Civil Action No. 1:11-cv-10484

**ORAL ARGUMENT REQUESTED**

**MAX PLANCK AND ALNYLAM'S MOTION FOR SUMMARY  
JUDGMENT ON PLAINTIFF'S STATE LAW CLAIMS**

Pursuant to Fed. R. Civ. P. 56 and Local Rule 56.1, defendants Max-Planck-Gesellschaft zur Förderung der Wissenschaften e.V., Max-Planck-Innovation GmbH (together, “Max Planck”), and Alnylam Pharmaceuticals, Inc. (“Alnylam”) hereby move the Court for Summary Judgment on Counts IV-VII (“UUtah’s State Law Claims”) of plaintiff University of Utah’s (“UUtah”) Corrected Third Amended Complaint, Dkt. No. 133.

For the reasons stated in the accompanying Memorandum in Support of Defendants’ Motion for Summary Judgment on Plaintiff’s State Law Claims, based on UUtah’s own pleadings and contentions and in light of the undisputed factual record developed during discovery, UUtah’s State Law Claims are preempted by the federal patent laws, and UUtah also fails to raise a genuine issue of material fact relating to the merits of its State Law Claims. Defendants are entitled to summary judgment on Counts IV-VII.

Request for Oral Argument

Pursuant to Local Rule 7.1(D), counsel for Max Planck and Alnylam hereby requests oral argument on this Motion.

Respectfully submitted,

Max-Planck-Gesellschaft zur Förderung der  
Wissenschaften e.V.; Max-Planck-Innovation  
GmbH; Whitehead Institute for Biomedical  
Research; Massachusetts Institute of Technology;  
and Alnylam Pharmaceuticals, Inc.

By their attorneys,

/s/ Scott McConchie

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Dated: March 31, 2015

ROBERT L. CARET, President of the University of Massachusetts, in his official capacity; JAMES R. JULIAN, Executive Vice President and Chief Operating Officer of the University of Massachusetts, in his official capacity; CHRISTINE M. WILDA, Senior Vice President for Administration, Finance & Technology and University Treasurer of the University of Massachusetts, in his official capacity; and JAMES P. MCNAMARA, Executive Director, Office of Technology Management of the University of Massachusetts, in his official capacity

By their attorney,

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**Certificate of Service**

I, Scott McConchie, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on March 31, 2015.

/s/ Scott McConchie  
Scott McConchie